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NEW DELHI, SATURDAY, NOVEMBER 24, 1984/AGRAHAYANA 3, 1906

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate paging is given to this Part in order that it may be filed as a separate
compilation

भाग II—खण्ड 3—उप-खण्ड (iii) PART II—Section 3—Sub-section (iii)

(संघ राज्य क्षेत्र प्रशासनों की छोड़ कर) केन्द्रीय अधिकारियों द्वारा जारी किए गए आदेश और अधिसूचनाएँ
Orders and Notifications issued by Central Authorities (other than Administrations of
Union Territories)

भारत निर्वाचन आयोग

नई दिल्ली, 26 अक्टूबर, 1984

ELECTION COMMISSION OF INDIA

New Delhi, the 26th October, 1984

आ. अ 100—लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 22, उपधारा (1) द्वारा प्रदत्त शक्तियों का उपयोग करते हुए, निर्वाचन आयोग एतद्वारा निदेश देता है कि इसकी अधिसूचना संख्या 434/हरि./84 (1) दिनांक 15-10-1984 में निम्नलिखित संशोधन किए जाएंगे, अर्थात्:—

उपयुक्त अधिसूचना के साथ संलग्न मारणी में संसदीय निर्वाचन क्षेत्र संख्या 1 में 6 तथा 8 में 10 के सम्बन्ध में, सम्म 2 में क्रम संख्या 1 पर "अपर-उपायुक्त" शब्दों के स्थान पर "मुख्य कार्यकारी अधिकारी" जिसका अर्थ विकास अधिकरण" शब्द प्रतिस्थापित किये जाएंगे तथा संसदीय निर्वाचन क्षेत्र संख्या 7 में "अपर उपायुक्त" शब्दों के स्थान पर "परियोजना निदेशक, सूत्राग्रस्त क्षेत्र कार्यक्रम अधिकरण" शब्द प्रतिस्थापित किए जाएंगे।

[संख्या 434/हरि./84 (1)]

आदेश से,
आर. पी. भल्ला, सचिव

O.N. 100—In exercise of the powers conferred by sub-section (1) of section 22 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby directs that the following amendments shall be made in its notification No. 434/HN/84(1) dated 15-10-1984, namely:—

In the table appended to the said notification the words "Additional Deputy Commissioner" occurring at Sr. No. 1 in Column 2 in respect of Parliamentary constituencies 1 to 6 and 8 to 10 shall be substituted by words "Chief Executive Officer, District Rural Development Agency", and in respect of Parliamentary Constituency 7, the words "Additional Deputy Commissioner" shall be substituted by the words "Project Director, Drought Prone Area Programme Agency".

[No. 434/HN/84(1)]

By order,
R. P. BHALLA, Secy.

नई दिल्ली, 14 नवम्बर, 1984

आदेश

आ. घ. 101.—लोक प्रतिनिधित्व अधिनियम, 1950 (1950 का 43) की धारा 13क की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत निर्वाचन आयोग, गुजरात सरकार के परामर्श से श्री आर.वी. चन्द्रमौली, आई.ए.एस. की छुट्टी का कालावधि के दौरान श्री के. वी. हरिहरदास, आई. ए. एस. (गुज. 1958), आयुक्त, प्रशिक्षण और सरकार के पदेन सचिव, जी. ए. डी. को उनके कार्य भार सम्भालने की तारीख से श्री चन्द्रमौली के प्रतिनिधित्व में वापस आने तक गुजरात राज्य के मुख्य निर्वाचन अधिकारी के रूप में नामनिर्दिष्ट करता है।

[सं. 154/गुज./84]

New Delhi, the 14th November, 1984

O.N. 101.—In exercise of the powers conferred by sub-section (1) of section 13A of the Representation of the People Act, 1950 (43 of 1950), the Election Commission of India, in consultation with the Government of Gujarat hereby nominates Shri K. V. Harihardas, IAS, Commissioner of Training and Ex-Officio Secretary to Government, G.A.D. as the Chief Electoral Officer for the State of Gujarat with effect from the date he takes over charge during the period of absence of Shri R. V. Chandramouli, IAS until he returns from deputation.

[No. 154/GJ/84]

नई दिल्ली, 18 नवम्बर, 1984

आ. घा. 102.—लोक प्रतिनिधित्व अधिनियम, 1950 (1950 का 43) की धारा 13क की उपधारा (1) तथा जम्मू और कश्मीर लोक प्रतिनिधित्व अधिनियम, 1957 (1957 का जम्मू और कश्मीर अधिनियम 4) की धारा 7क, उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत निर्वाचन आयोग, जम्मू और कश्मीर सरकार के परामर्श से श्री हकीम सादतुल्लाह के स्थान पर श्री एच. एन. कादलाबजु, आई. ए. एस. सरकार के सचिव, आवास तथा शहरी विकास विभाग, को 19 नवम्बर, 1984 से जम्मू और कश्मीर राज्य के मुख्य निर्वाचन अधिकारी के रूप में एनद्द्वारा नामनिर्दिष्ट करता है।

[सं. 154/ज. और क./84]

आदेश में,
के. गणेशन, सचिव

New Delhi, the 18th November, 1984

O.N. 102.—In exercise of the powers conferred by sub-section (1) of section 13A of the Representation of the People Act, 1950 (43 of 1950) and of sub-section (1) of Section 7A of the Jammu and Kashmir Representation of the People Act, 1957 (J&K Act IV of 1957) the Election Commission of India, in consultation with the Government of Jammu & Kashmir hereby nominates Shri H. L. Kadlabaju, IAS, Secretary to the Government, Housing and Urban Development Department, Jammu & Kashmir as the Chief Electoral Officer for the State of Jammu and Kashmir with effect from 19th November, 1984.

[No. 154/J&K/84]

By Order,
K. GANESAN, Secy.

नई दिल्ली, 7 नवम्बर, 1984

आ.ज. 103.—यतः निर्वाचन आयोग का समाधान हो गया है कि दिसम्बर, 1983 को हुए राजस्थान विधान सभा के उप-निर्वाचन के लिए 29-मण्डवा विधान सभा निर्वाचन-क्षेत्र में निर्वाचन करने वाले अभ्यर्थी श्री जगदीश सिंह पंवार, राय बहादुर सेठ कन्हैयालाल मुसारी मार्ग, मण्डवा, जिला झुन्झुनू (राजस्थान) लोक प्रतिनिधित्व अधिनियम, 1951 तथा उसके बनाए गए नियमों द्वारा अपेक्षित तरीके से अपना निर्वाचन व्यय का लेखा वांछित करने में असफल रहे हैं;

और, उक्त अभ्यर्थी ने, उसे सम्यक सूचना दिए जाने पर भी, अपनी असफलता के लिए कोई कारण अथवा स्पष्टीकरण नहीं दिया है, और निर्वाचन आयोग का समाधान हो गया है कि उसके पास उक्त असफलता के लिए कोई पर्याप्त कारण अथवा औचित्य नहीं है,

अतः, अब, उक्त अधिनियम की धारा 10क के अनुसरण में निर्वाचन आयोग उक्त श्री जगदीश सिंह पंवार को संसद के किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद के सदस्य चुने जाने और होने के लिए इस आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है।

[सं. राज.वि.मं/29/83(उप)]

ORDER

New Delhi, the 7th November, 1984

O.N. 103.—Whereas the Election Commission is satisfied that Shri Jagdish Singh Panwar, Rai Bahadur Seth Kanhaya Lal Mussadi Marg, Mandawa, District Jhunjhunu (Rajasthan), a contesting candidate at the bye-election to the Rajasthan Legislative Assembly held in December, 1983 from 29-Mandawa Assembly Constituency has failed to lodge his account of his election expenses in the manner as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas the said candidate has not furnished any reason or explanation for the said failure even after due notice, the Election Commission is satisfied that he has no good reason or justification for the said failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Jagdish Singh Panwar to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this order.

[No. RJ-LA/29/83/Bye]

आदेश

आ.ज. 104.—यतः, निर्वाचन आयोग इस बात से संतुष्ट है कि हिमाचल प्रदेश विधान सभा के लिए 39-परगासपुर विधान सभा निर्वाचन क्षेत्र में मई 1984 में हुए उप-निर्वाचन में, निर्वाचन में खड़े एक अभ्यर्थी श्री होशियार मिश्र, गांव सुकाहर, डाकघर जलावी, तहसील बेहरा, जिला कांगड़ा (हिमाचल प्रदेश), लोक प्रतिनिधित्व अधिनियम, 1951 तथा इसके अधीन बनाए गए नियमों द्वारा वांछित तरीके से अपने निर्वाचन, खर्चों का व्यौरा प्रस्तुत करने में असमर्थ रहे,

और यतः, उक्त अभ्यर्थी ने विधिवत सूचना मिलने के बावजूद भी उपर्युक्त असमर्थता के लिए कोई कारण अथवा स्पष्टीकरण नहीं दिया है और निर्वाचन आयोग इस बात से संतुष्ट है कि उनके पास उक्त असमर्थता के लिए कोई वैध कारण अथवा औचित्य नहीं है।

अतः अब, उक्त अधिनियम की धारा 10 के अनुसरण में, निर्वाचन आयोग, उक्त श्री होशियार सिंह को, इस आदेश की तारीख से तीन वर्ष की अवधि के लिए, सदन के किसी भी सदन अथवा राज्य विधानसभा अथवा विधान परिषद के सदस्य के रूप में निर्वाचन के लिए अथवा कार्य करने के अयोग्य घोषित करता है।

[सं० दि० प्र० वि० सं०/39/84/उप०]

आदेश से,
धर्मचर, अवर सचिव

ORDER

O.N. 104.—Whereas the Election Commission is satisfied that Shri Hoshiar Singh, Village Sukhahar P.O., Chahali, Tehsil Dehra, District Kangra (Himachal Pradesh), a contesting candidate at the bye-election to the Himachal Pradesh Legislative Assembly held in May 1984 from 39-Pragpur Assembly Constituency has failed to lodge his account of his election expenses in the manner as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas the said candidate has not furnished any reason or explanation for the said failure even after due notice, the Election Commission is satisfied that he has no good reason or justification for the said failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Hoshiar Singh to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this Order.

[No. HP-LA/39/84/Bye]

By Order,
DHARAM VIR, Under Secy.

नई दिल्ली, 13 नवम्बर, 1984

आ० अ० 105—लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 22 की उपधारा (1) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए, निर्वाचन आयोग एतद्वारा इसकी 15 अक्टूबर, 1984 की अधिसूचना सं० 434/लक्षद्वीप/84(2) में आगे और संशोधन करने का निर्देश देता है, अर्थात्—

उक्त अधिसूचना की सलग सारणी के स्तम्भ 2 में क्र०सं० 2, 7 और 9 दी गई मौजूदा प्रविष्टियों के स्थान पर क्रमशः निम्नलिखित प्रविष्टियाँ की जाएँगी:—

“2. तहसीलदार, अन्दरोथ

7. कृषि अधिकारी तथा पदेन उप-मंडल अधिकारी, अगाट्टी।

9. उप कलेक्टर, मिनिक्कोय।”

सं० 434/लक्षद्वीप/84(2)

आदेश से
एस० आर० सेठी, अवर सचिव

New Delhi, the 13th November, 1984

O.N. 105.—In exercise of the powers conferred by sub-section (1) of section 22 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby directs that the following amendments shall be made in its notification No. 434/LD(84)(2) dated the 15th October, 1984, namely:—

In column 2 of the table appended to the said notification, for the existing entries at Serial numbers 2, 7 and 9 the following entries shall respectively be substituted:—

“2. Tahsildar, Androth.

7. Agriculture Officer and Ex-Officio Additional Sub-divisional Officer, Agatti.

9. Deputy Collector, Minicoy.”

[No 434/LD/84(2)]

By Order,
S. R. SETHI, Under Secy.

नई दिल्ली, 15 नवम्बर, 1984

आ० अ० 106—लोक प्रतिनिधित्व अधिनियम 1950 (1950 का 43) की धारा 13 के उपधारा (1) और (2) के उपबन्धों के अनुसरण में, निर्वाचन आयोग, एतद्वारा निर्देश देता है कि निम्नलिखित संशोधन इसकी दिनांक 4 जून, 1984 की अधिसूचना सं० 508/असम/84 में किए जाएँगे, जो असम राज्य में जिला निर्वाचन अधिकारियों की नियुक्तियों के सम्बन्ध में हैं, अर्थात्:—

उक्त अधिसूचना से सलग सारणी में स्तम्भ 2 के अन्तगत सब संख्या 8-कामरूप जिला के सामने (ख) में संशोधित मौजूदा प्रविष्टि के स्थान पर “अपर उपायुक्त, कामरूप, नालबारी” प्रविष्टि रखी जाएगी।

[सं० 508/असम/84]

New Delhi, the 15th November, 1984

O.N. 106.—In pursuance of the provisions of sub-sections (1) and (2) of section 13AA of the Representation of the People Act, 1950 (43 of 1950), the Election Commission hereby directs that the following amendment shall be made in its Notification No. 508/AS/84 dated 4th June, 1984, relating to the appointment of District Election Officers in the State of Assam, namely:—

In the Table appended to the said notification against item No. 8-Kamrup district, under column 2 for the existing entry relating to ‘(b), the entry “Additional Deputy Commissioner, Kamrup, Nalbari” shall be substituted.

[No. 508/AS/84]

नई दिल्ली, 16 नवम्बर, 1984

आ० अ० 107—लोक प्रतिनिधित्व अधिनियम 1950 (1950 का 43) की धारा 13 के उपधारा (1) और (2) के अनुसरण में और अपनी दिनांक 21-1-1972 की अधिसूचना संख्या 508/त्रिपुरा/72 को अधिकांत करते हुए, निर्वाचन आयोग राज्य सरकार के परामर्श से एतद्वारा—

(1) निम्न सारणी के स्तम्भ 1 में विनिर्दिष्ट त्रिपुरा राज्य में प्रत्येक जिले के लिए उनके सामने स्तम्भ 2 में विनिर्दिष्ट आधिकार को उस जिले के लिए जिला निर्वाचन आधिकार के रूप में पदोन्नत करता है, और

(2) उस सारणी के स्तम्भ 3 में उस क्षेत्र को विनिर्दिष्ट करता है जिसको बाबत ऐसा प्रत्येक आधिकार अपनी अधिकारिता का प्रयोग करेगा।

| सारणी | | |
|--------------------------|--|---|
| क्र०सं० और जिले का नाम | जिला निर्वाचन अधिकारी का पदनाम | क्षेत्राधिकार का क्षेत्र |
| 1 | 2 | 3 |
| 1. पश्चिम त्रिपुरा जिला | जिला मजिस्ट्रेट और कलेक्टर, पश्चिम त्रिपुरा जिला, अगरतला | सबर, मोनामुरा और बोर्दो उप खण्ड |
| 2. दक्षिणी त्रिपुरा जिला | जिला मजिस्ट्रेट और कलेक्टर, दक्षिण त्रिपुरा जिला, उदयपुर | उदयपुर, बेलोनिया, नाबरूम और अगरपुर उपखण्ड |
| 3. उत्तरी त्रिपुरा जिला | जिला मजिस्ट्रेट और कलेक्टर, उत्तरी त्रिपुरा जिला, केला साहार | कमलपुर, केलासाहारा धर्म नगर उपखण्ड |

[सं० 508/त्रिपुरा/84]

आदेश से,
सी० एल० रोस, अवर सचिव

New Delhi, 16th November, 1984

N.O. 0/—In pursuance of sub-section (1) and (2) of section 13AA of the Representation of the People Act, 1950 (43 of 1950), and insupercession of its notification No. 508/TP/72 dated 21-1-1972, the Election Commission, in consultation with the State Government, hereby:—

- (1) designates for each district in the State of Tripura specified in column 1 of the Table below the officer specified against it in column 2 thereof as the District Election Officer for that District, and
- (2) specifies the area in respect of which each such officer shall exercise jurisdiction, in column 3 of the Table.

TABLE

| Sl. No. and Name of District | Designation of District Election Officer | Area of jurisdiction |
|------------------------------|--|--|
| 1 | 2 | 3 |
| 1. West Tripura District. | District Magistrate and Collector, West Tripura District, Agartala. | Sadar, Sonamura and Khawai Sub-divisions. |
| 2. South Tripura District. | District Magistrate and Collector, South Tripura District, Udaipur. | Udaipur, Belonia, Sabroom and Amarpur sub-divisions. |
| 3. North Tripura District. | District Magistrate and Collector, North Tripura District, Kailasahar. | Kamulpur, Kailasahar and Dharma nagar Sub-Division. |

[No. 508/TP/84.]

C. L. ROSE, Under Secy.

नई दिल्ली, 17 नवम्बर, 1984.

प्रा. प्र. 108. -लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 106 के अनुसरण में निर्वाचन आयोग, उच्च न्यायालय के तारख 15 फरवरी, और 1 दिसम्बर, 1982 के आदेशों के विरुद्ध फाइल की गई सन् 1983 की अपील संख्या 9 तथा 10 में भारत के उच्चतम न्यायालय के तारख 27 फरवरी, 1984 के निर्णय को, सन् 1982 की निर्वाचन प्रक्रिया 1 में हलाहवा उच्च न्यायालय, लखनऊ पीठ के तारख 3 अप्रैल, 1984 के निर्णय के साथ, एतद्वारा प्रकाशित करता है।

(निर्णय केवल अंग्रेजी में मुद्रित है)

ओ० ना० नागर. अवर सचिव

New Delhi, the 17th November, 1984

O.N. 108.—In pursuance of Section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the judgement dated the 27th February, 1984 of the Supreme Court of India in the appeals Nos. 9 and 10 of 1983 filed against the orders dated 15th October and 1st December, 1982, of the High Court along with the judgment dated 3rd April, 1984 of the High Court of Judicature at Allahabad, Lucknow Bench, in Election Petition No. 1 of 1982.

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 3702 (NCE) of 1982

(Appeal by Special leave from the Judgment and Order dated the 2nd August, 1983 of the Allahabad High Court in Election Petition No. 28 of 1980)

Rajendra Singh ...Appellant.
Versus
Smt. Usha Rani & Ors. ...Respondents.

WITH

Civil Appeal No. 9 of 1983

Annexures I & II

(Appeal by Special leave from the Judgement* and Order dated the 15th October/1st December, 1982 of the Allahabad High Court in Election Petition No. 1 of 1982)

J. P. Goyal ...Appellant.

Versus

Raj Narain & Ors. ...Respondents.

AND

CIVIL APPEAL NO. 10 OF 1983

(Appeal by Special leave from the Judgment and Order dated the 15th October, 1982 & 1st December, 1982 of the Allahabad High Court in Election Petition No. 1 of 1982)

Bishambhar Nath Pande & Ors. ...Appellants.

Versus

Raj Narain & Ors. ...Respondents.

The 27th day of February, 1984

PRESENT :

Hon'ble Mr. Justice S. Murtaza Fazal Ali

Hon'ble Mr. Justice A. Varadarajan.

Hon'ble Mr. Justice Ranganath Misra.

Mr. S. N. Kacker, Senior Advocate,

M/s. R. L. Srivastava, Rajesh & V. K. Verma, Advocates with him for the Appellants in CA. No. 3702 of 1982.

Appellant in person in CA. No. 10 of 1983.

Mr. M. C. Dhandare, Senior Advocate,

Mr. V. K. Verma, Advocate with him for the Appellant in CA. 9/83.

Mr. Yogeshwar Prasad, Senior Advocate,

Mr. R. Chhabra, Mr. Sujant Ullah & Mr. K. K. Gupta, Advocates with him for the Respondents.

JUDGMENT

The following Judgment of the Court was delivered :

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 3702 (NCE) OF 1982

Rajendra Singh ...Appellant.

versus

Smt. Usha Rani & Ors. ...Respondents.

Civil Appeal No. 9 of 1983

J. P. Goyal ...Appellant.

versus

Raj Narain & Ors. ...Respondents.

Civil Appeal No. 10 of 1983

Bishambhar Nath Pande & Ors. ...Appellants.

versus

Raj Narain & Ors. ...Respondents.

JUDGMENT

FAZAL ALI, J.

As these appeals involve common points of law, we propose to decide them by one judgment.

Civil Appeal No. 3702 of 1982

This appeal arises out of election to 375-Iglas Assembly Constituency, Aligarh to the Uttar Pradesh Legislative Assembly which was held on May 28, 1980 and the result of which was declared on June 1, 1980, in which the appellant

*Annexure I & II.

was declared elected, Respondent No. 1, Smt. Usha Rani had also contested the above-mentioned election but was defeated. Aggrieved by the result of the aforesaid election, Smt. Usha Rani filed an election petition on July 15, 1980, at the residence of the Registrar of the Allahabad High Court. Thereafter, on September 24, 1981, the appellant filed a petition before the High Court for rejection of the election petition filed by the respondent, on the ground that the copy of the petition served on him was neither attested to be a true copy nor a correct copy of the original petition, as contemplated by the provisions contained in s. 81(3) of the Representation of the People Act (hereinafter referred to as the 'Act') and hence the election petition should be rejected in limine under s. 86 of the Act. Sub-s. (3) of s. 81 may be extracted thus :

"81. Presentation of petitions—

XX XX XX XX

(3) Every election petition shall be accompanied by as many copies thereof as there are respondents mentioned in the petition, and every such copy shall be attested by the petitioner under his own signature to be a true copy of the petition."

An analysis of this sub-section would reveal that every election petition should be accompanied by as many copies as there are respondents and that every copy should be attested by the petitioner under his own signature. If these requirements are not followed strictly and literally, it would result in dismissal of the election petition without any trial as provided by s. 86 of the Act.

In the instant case, the main point raised by the appellant was that two sets of copies were filed by the election-petitioner in the High Court, one set being a correct and exact one and the other containing vital omissions and mistakes. This position is not disputed by the respondent (election-petitioner). In reply to the preliminary objection raised by the appellant, the respondent rebutted the charge on the ground that the appellant had got a correct copy as required by s. 81(3) of the Act and, therefore, he could not be heard to complain of any non-compliance with the provisions of the aforesaid sub-section.

After going through the judgment of the High Court it is not clear whether the appellant received the correct copy of the petition or an incorrect one. On the other hand, on the evidence and admitted facts the following circumstances appear to be undisputed :—

- (a) that two sets of copies were filed by the election-petitioner in the High Court,
- (b) that one set was correct as required by the Act, and
- (c) the other set was incorrect as it contained vital omissions and mistakes regarding the details of corrupt practices alleged against the appellant.

There is, however, no clear evidence or finding to show that the copies which were received by the appellant were correct or incorrect and there is some divergence on this point. The High Court seems to have come to the conclusion that as the respondent had filed correct copies also, she did not violate the provisions of s. 81(3) and it was for the appellant to have chosen the correct copy from the two sets. The learned Judge of the High Court has also invoked the doctrine of benefit-of-doubt in order to cure the non-compliance of the mandatory provisions of s. 81(3).

On going through the relevant evidence we find that there is overwhelming material to show that the appellant did not receive the correct copy and even the respondent in her evidence did not categorically deny this fact. The respondent in her evidence before the Court admitted that out of the 22-23 copies filed by her, 10 copies were correct and were duly signed by her and the rest were left with the counsel with instructions to get them corrected. Therefore, she was not at all sure whether all the copies were corrected or not. She further admitted that in some of the copies she did not initial the various corrections and that Exts. R-1, R-2, R-3 and R-4 were not out of those 10 copies which had been filed by her

alongwith the election petition at the residence of the Registrar. There is, however, clear evidence to show that the copies which were received by the appellant were Exts. R-1 to R-4, which admittedly were not correct copies of the election petition.

This being the position, it is manifest that the appellant did not receive the correct copies as contemplated by s. 81(3) of the Act. The respondent has also not been able to prove that the copies served on the appellant were out of the 10 corrected copies which she had signed and filed. It appears that in view of a large number of the copies of the petition having been filed, there was an utter confusion as to which one was correct and which was not. It is obvious that if an election-petitioner files a number of copies, some of which may be correct and some may be incorrect, it is his duty to see that the copy served on the respondent is a correct one. A perusal of ss. 81(3) and 86 of the Act gives the impression that they do not contemplate filing of incorrect copies at all and if an election-petitioner disregards the mandate contained in s. 81(3) by filing incorrect copies, he takes the risk of the petition being dismissed in limine under s. 86. It is no part of the duty of the respondent to wade through the entire record in order to find out which is the correct copy. If out of the copies filed, the respondent's copy is found to be an incorrect one, it amounts to non-compliance of the provisions of s. 81(3) which is sufficient to entail a dismissal of the election petition at the behest.

Hence, the mandate contained in s. 81(3) cannot be equated with s. 537 of the Code of Criminal Procedure which makes certain omissions as a curable irregularity. No such concept can be imported into the election law because the object of the law is that the electoral process should not be set at naught and an elected candidate should not be thrown out unless the grounds mentioned in the Act are clearly and fully proved. An election dispute concerns the entire constituency and in a parliamentary democracy it is of paramount importance that duly elected representatives should be available to share the responsibility in the due discharge of their duties. That is why the law provides time-bound disposal of election disputes and holds out a mandate for procedural compliance.

In these circumstances, therefore, in the instant case there was absolutely no justification for the learned Judge to have invoked the doctrine of benefit-of-doubt. We are satisfied that it has not been proved by the respondent that she filed correct copies of the election petition or, for that matter, the appellant got the correct copy and not the incorrect one, in the face of the clear and categorical assertion by him that he did not receive the correct copy.

For these reasons, therefore, the appeal is allowed and the election petition filed by the respondent is dismissed under s. 86 of the Act. There will be no order as to costs.

Civil Appeal Nos. 9 & 10 of 1983

These two connected appeals also involve more or less the same point of law as was involved in Civil Appeal No. 3702 of 1982, with the difference that in civil appeal No. 9 of 1983, J. P. Goyal, and in civil appeal No. 10 of 1983, Bishamber Nath Pandey, (appellants) were declared elected to the Rajya Sabha on March 29, 1982. An election petition to set aside their election was filed on May 10, 1982 by the Respondent (Raj Naram) making a number of allegations. When the case came up before the Court on 5-7-82, an application was made by the respondents for amendment of the original petition by insertion of page 17, which was allowed. The appellants filed a petition before the Election Judge for rejecting the election petition of the respondents because no amendment could be allowed which would have the effect of defeating or by passing the provisions of s. 81(3) of the Representation of the People Act (for short, referred to as the 'Act').

It may be stated here that Shri Bishamber Nath Pandey has in the meantime been appointed as Governor of Orissa and has resigned his membership of the Rajya Sabha. Therefore, as requested at the Bar, his name is deleted from the category of appellants.

The main argument on behalf of the remaining appellants was that 11 copies of the election petition were filed on 10-5-1982 and although the copies which were served on them did contain page 17 yet the original petition did not contain page 17 and was sought to be added only by way of approaching the Court for amendment of the petition. It was further contended that the Court had no jurisdiction to accede to the prayer for amendment of the petition when at the time of filing the petition, the mandate contained in s. 81(3) was not complied with. In other words, the position seems to be that while the copies which were served on the appellants did contain page 17 yet the original election petition did not contain page 17. This being the admitted position, it could not be said that the copies served on the appellants were the correct and exact copies of the election petition. The provision of s. 81(3) is clear and specific and requires that every copy of the election petition must be a true and exact copy of the petition.

The learned counsel for the respondent submitted that this is a highly technical objection and did not cause any prejudice to the appellants because so far as their copies were concerned they already contained page 17. Mr. Bhandare, counsel for the appellants, however, submitted that this is beside the point and does not cure the invalidity of the election petition filed on 10-5-82. The mandate contained in s. 81(3) enjoins that there should be no difference of any kind whatsoever barring some typographical or insignificant omissions between the petition filed and the copy served on the respondent. If an entire page is missing in the petition but it is there in the copy served on the respondent, then it is manifest that the copy served was not an exact and true copy of the petition. The consequences of the mandatory provisions of s. 81(3) could not be got over by praying for an amendment of the election petition because that would defeat the very object and purpose of s. 81(3). It is not disputed that this discrepancy between the election petition and the copies served on the appellants was undoubtedly there. In these circumstances, the High Court was wrong and committed a serious error of law in allowing the amendment of the petition. The High Court should have tried to appreciate the tenor and spirit of the mandate contained in s. 81(3) of the Act. In the case of Sharif-ud-Din v. Abdul Gani Lone⁽¹⁾ this Court dismissed the election petition only on the ground that the words "attested to be a true copy" were not signed by the election-petitioner and held that this was not a sufficient compliance with the provisions of s. 89(3) of the Jammu and Kashmir Representation of the People Act, which is the same as s. 81(3) of the Act. In the instant case, the inconsistency is much greater than in Sharif-ud-Din's case.

Similarly, in an earlier case of Satya Narain v. Dhuja Ram & Ors.,⁽²⁾ this Court held as follows:—

"If there is any halt or arrest in progress of the case, the object of the Act will be completely frustrated. We are, therefore, clearly of opinion that the 1st part of section 81(3) with which we are mainly concerned in this appeal is a peremptory provision and total non-compliance with the same will entail dismissal of the election petition under section 86 of the Act."

This view has been consistently taken all through in all the decided cases of this Court so far. Reliance was, however, placed by the counsel for the respondents on the following observations of Dwivedi, J., in Satya Narain's case :

"Our decision restores that primacy of procedure over justice. It makes s. 86(1) a tyrannical master. The rigidity of the rule of precedent ties me to its chains. My only hope now is that Parliament would make a just choice between the social interest in the supply of copies by the election petitioner alongwith his election petition and the social interest in the purity of election by excluding s. 81(3) from the purview of s. 86(1) of the Act."

The aforesaid observations express a pious wish but do not at all detract from what has been decided in this case and with which the learned Judge also agreed. Despite these observations, the Parliament in its wisdom has not made any attempt to interfere with the peremptive and mandatory provisions of s. 81(3) resulting in the consequence of dismissal of the petition under s. 86 of the Act.

1. (1980) 1 SCR 1177.

2. (1974) 3 SCR 20.

For the reasons given above, we allow the appeal, set aside the judgment of the High Court and dismiss the election petitions in limine under s. 86 of the Act. In the circumstances, there will be no order as to costs

(S. Murtaza Fazal Ali)

(A. Varadarajan)

(Ranganath Misra)

NEW DELHI,
February 27, 1984

ANNEXURE 1

Election Petition No. 1 of 1982.

C. M. Applications Nos. 29(E), 34(E), 36(E) and 37(E) of 82 Hon. S. C. Mathur, J.

These applications have been made by various respondents for recall of my order dated 16-7-1982 passed on C. M. Application No. 22(E) of 1982 for leave to amend the Election Petition. The application was allowed as a consequence of which page no. 17 was added to the Election Petition which was originally omitted therefrom. The applications have arisen in the circumstances hereinafter stated.

The Election Petition was filed before the joint Registrar of this Court on 10-5-1982. It was listed before me for orders on 5-7-1982, when it was discovered that certain paragraphs were missing. The learned counsel for the petitioner prayed for one week's time to amend the petition which was granted. Thereafter C. M. Application No. 22(E) of 1982 was moved seeking leave to amend the petition. The application was allowed by order dated 16-7-1982. By this time the respondents had not put in appearance and no notice of the application was given to them. The Election Petition was thereafter listed for orders on 2-8-1982 when it was admitted and notices were ordered to be issued to the respondents. After appearance had been put in by the respondents, the present applications for recall of the order were made on the following grounds:—

1. The amendment was allowed without giving the respondent opportunity of hearing and, therefore, the order suffered from violation of principles of natural justice.

2. Under the Representation of Peoples Act there is no general power to allow amendment of the Election Petition and the amendment could be allowed only if it fell within the four corners of section 86(5). The amendment claimed and allowed was beyond the scope of section 86(5).

3. The entire Code of Civil Procedure was not applicable to an Election Petition and the same did not apply to an Election Petition and the same did not apply in respect of matters specifically provided for in the Representation of People Act.

4. After the expiry of the period of 45 days prescribed under section 81(1) of the Representation of Peoples Act, no amendment could either be claimed or allowed.

5. Averments contained on page 17, which were added through the amendment, had not been verified and, therefore, they cannot validly form part of the Election Petition.

Against the maintainability of the present applications, preliminary objection was raised by Sri H. S. Jain, learned counsel for the petitioner. Sri Jain argued that the respondents could not take the plea raised through the applications without filing a written-statement and that he said plea could appropriately be raised only through written-statement. According to the learned counsel after the written-statement had been filed and issues had been framed, the present plea could be treated as a preliminary plea and decided as such. It was also argued that since specific provisions were contained in the Code of Civil Procedure, which was applicable to the proceedings, the present applications filed under section 151 of the Code of Civil Procedure were not maintainable.

nable. It was also pressed that if the procedure adopted by the respondents was permitted, it would lead to delay in the disposal of the Election Petition. According to the learned counsel the omission or error in the original Election Petition was purely accidental and clerical and could, therefore, be corrected by amendment. It was also claimed that since the trial of the Election Petition had not commenced, the respondents were not entitled to be heard at the time of the disposal of the amendment application.

Since Sri Jain had pressed that before proceeding to decide the present applications issues may be struck on the points arising from these applications, the following issues were framed :—

1. Whether the order dated 16th July, 1982 by which the Election Petition was allowed to be amended is liable to be recalled because it was passed without giving opportunity of hearing to the opposite parties.
2. Whether the amendment of the nature allowed by this Court could not be allowed in view of the expiry of the period of limitation prescribed under section 81 of the Representation of People Act?
3. Whether the amendment could not be allowed because it is not covered by sub-section (5) of section 86 of the Representation of People Act?
4. Whether the applications moved on behalf of the opposite parties for recall of the order dated 16th July, 1982 are maintainable in view of the fact that no written statement has so far been filed by these opposite parties?
5. Whether the amendment could be allowed on the ground that the error in the petition was accidental or clerical?
6. Whether the paragraphs which were added subsequently in pursuance of the Court's order dated 16th July, 1982 were deliberately omitted from the original petition as alleged by opposite parties 7 and 11?

Before taking up the above issues it may be pointed out that page 17, which has now been added, contains sub-paragraphs (xxxv), (xxxvi), (xxxvii), (xxxviii) and part of sub-paragraph (xxxiv), but in the affidavit filed in support of the amendment application it was stated that due to inadvertence and oversight page no. 17 which contained paragraphs 25, 26, 27 and 28 had not been attached to the Election Petition. This again was an error. This error, however, does not vitiate the order of amendment nor does it vitiate the amendment carried out by the petitioner in pursuance of the order dated 16-7-1982. It may be noted that the prayer in the application was in these terms :—

"That for the facts and reasons mentioned in the accompanying affidavit, it is respectfully prayed that this Hon'ble Court may be pleased to order to attach page no. 17 as shown in Appendix 'A' to the affidavit after page no. 16 in the above noted Election Petition."

From this prayer it would be seen that what was sought through the application was permission to attach page no. 17 as shown in Appendix A. Appendix A attached to the affidavit contained not paragraphs 25, 26, 27 and 28 but sub-paragraphs (xxxiv), (xxxvi), (xxxvii), (xxxviii) and part of sub-paragraphs (xxxiv). In the circumstances it cannot be said that the amendment carried out is in excess of the order dated 16-7-1982.

Issue No. 4.—In support of his argument that the present applications are not maintainable, the learned counsel for the petitioner relied upon *Sharif-Ud-Din Vs. Abdul Gani Lone* (1980(1) Supreme Court cases 403). A perusal of this judgment indicates that certain pleas were raised through the pleadings on the basis of which two preliminary issues were framed and were disposed of by the High Court. Recording finding on one of the preliminary issues the High Court came to the conclusion that the Election Petition was liable to be dismissal for non-compliance of section 80(3) of the Jammu Kashmir Representations of People Act, 1957. Section

80(3) of the Jammu Kashmir Act required the copies of the Election Petition intended to be served upon the respondents to be signed by the Election Petitioner. This Provision is similar to sub-section (3) of section 81 which requires every Election Petition to be accompanied by as many copies thereof as there are respondents mentioned in the petition and every such copy to be attested by the petitioner under his own signature to be a true copy of the petition. Merely because issues had in fact been framed in this case it cannot be said that the plea raised through the present application, cannot be entertained at all. It may be pointed out that the application for leave to amend the Election Petition was made after the Election Petition had already been filed in Court and if such an application had been moved after the respondents had put in appearance, the same could be allowed only after giving opportunity of hearing to the respondents. If the application had been made at that stage, the respondents could have filed written objections against the application for leave to amend the Election Petition. The present applications are substantially in the nature of objections to the application for leave to amend moved by the petitioner. *Sharif-Ud-Din's* case is not at all an authority for the proposition pressed by the learned counsel.

With reference to Order 8 rule 1 of the Code of Civil Procedure it was next argued that at or before the first hearing of the Election Petition the respondents had to file their written statement and raised therein all pleas legal and factual and the said pleas could not be raised through the present applications inasmuch as a specific provision has been made in the Code for raising the defence. It is true that Order 8 rule 1 of the Code of Civil Procedure requires the respondents to file written-statement at or before the first hearing of the petition but this provision does not debar the respondents from challenging an order passed behind their back through a separate application. The reliance placed by the learned counsel upon Order a rule 1 of the Code of Civil Procedure is, therefore, misconceived.

With reference to the Explanation to sub-section (4) of section 86 it was argued that the trial of the Election Petition had not commenced when the order allowing the application for leave to amend was passed and, therefore, at that stage the respondents were not entitled to any hearing and consequently they would not be entitled to challenge the order. Sub-section (4) provides for impleadment of a person as respondent who has not already been impleaded in the Election Petition. It prescribes period of limitation also for moving such an application. This period is 14 days from the date of commencement of the trial. For the purposes of computing this period of limitation it has been provided in the Explanation that the trial of the petition shall be deemed to commence on the date fixed for the respondents to appear before the High Court and answer the claim. The explanation itself provides that it has application only to sub-section of section 86 and to section 97. Further the explanation does not prohibit the moving of an application by a respondent after he has put in appearance for recall of an order passed prior to service of notice upon him.

In view of the above, I am of the opinion that the present applications for recall of the order dated 16-7-1982 are maintainable.

Issues Nos. 5 and 6.—In the affidavit filed in support of the amendment application it was stated that page 17 was omitted to be attached to the original petition through inadvertence and oversight. On behalf of the respondents it has been pressed that the omission was not inadvertent but was deliberate. The petitioner had nothing to gain by deliberately omitting to attach page 17 of the Election Petition. In the circumstances I am unable to agree with the submission made on behalf of respondents that the omission was deliberate. In my opinion, the error on the part of the petitioner was inadvertent and accidental and could be corrected. This findings is subject to the finding recorded under Issues Nos. 2 and 3.

It was strenuously argued on behalf of the respondents that the provisions of the Representation of People Act have to be strictly applied because the remedy provided under the Act is a statutory remedy and not a common law remedy. It was argued that the amendment application had been moved after the expiry of the period of limitation prescribed under the Act for filing an Election Petition and after the expiry of the said period no amendment could be allowed save as permitted by sub-section (5) of section 86. There was some argument at the Bar regarding the applicability of the Code of Civil Procedure. On behalf of the petitioner it was argued that the entire Code of Civil Procedure was applicable to the Election Petition while on behalf of the respondents it was pleaded that the entire Code of Civil Procedure was not applicable, and in any case, in respect of the matter of amendment since specific provision has been made under sub-section (5) of section 86 the provisions of the Code of Civil Procedure relating to amendment of pleadings will have no application. The period prescribed under sub-section (1) of Section 81 for the filing of Election Petition. The Election Petition had been filed within the period prescribed under the said section, namely, 45 days from the date of the election of the returned candidate. Section 87 of the Representation of People Act prescribes the procedure to be followed by the High Court in the trial of an Election Petition. It lays down as follows :—

“(1) Subject to the provisions of this Act and of any rules made thereunder, every election petition shall be tried by the High Court, as nearly as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908 to trial of suits :

Provided that the High Court shall have the discretion to refuse, for reasons to be recorded in writing, to examine any witness or witnesses if it is of the opinion that the evidence of such witness or witnesses is not material for the decision of the petition or that the party tendering such witness or witnesses is doing so on frivolous grounds or with a view to delay the proceedings.

(2).....”.

From the above it would be seen that the Code of Civil Procedure applies subject to the provisions of the Representation of People Act and of the rules made thereunder. In other words, if there is conflict between the provisions of the Representation of People Act and the Code of Civil Procedure the former would prevail over the latter.

Section 86 occurring in Chapter III provides for trial of Election Petitions. Sub-section (5) of the section provides as follows :—

“(5) The High Court may, upon such terms as to costs and otherwise as it may deem fit allow the particulars of any corrupt practice alleged in the petition to be amended or amplified in such manner as may in its opinion be necessary for ensuring a fair and effective trial of the petition, but shall not allow any amendment of the petition which will have the effect of introducing particulars of a corrupt practice not previously alleged in the petition.”

The above provision deals with a specific type of amendment and not amendments generally. Under this provision the particulars of corrupt practice already pleaded in the Election Petition can be amended but a fresh head of corrupt practice cannot be added. The combined effect of sub-section (1) of section 87 and sub-section (5) section 86 is that an Election Petition may be amended in the same manner in which plaint of an ordinary suit may be amended but if the amendment relates to corrupt practice, it can be amended only so as to explain or amplify it but not so as to introduce a fresh head of corrupt practice not already pleaded in the Election Petition. In the circumstances I am unable to agree with the submission of the learned counsel for the respondents that the present amendment not being covered by sub-section (5) of section 86 could not be allowed

It is true that the amendment sought is not covered by sub-section (5) of section 86 but it could be allowed under order 6 rule 17 of the Code of Civil Procedure.

In view of the above I am of the opinion that neither on the basis of the limitation prescribed under sub-section (1) of section 81 nor on the basis of sub-section (5) of section 86 the amendment could be refused.

The learned counsel for the respondents cited Satya Narain Vs. Dhruja Ram and others (A.I.R. 1974 Supreme Court 1185) for the proposition that the provisions of the Representation of People Act have to be strictly construed and applied as the remedy of the Election Petition was not a common law remedy but was a statutory remedy. For the same proposition he also relied upon S. Harif-ud-Din vs. Abdul Gani Lone [1980(1) Supreme Court cases 403]. In Satya Narain's case there was delay of one day in filing copies of the Election Petition intended to be served upon the respondents but in view of the delay the Election petition was dismissed. In Sharif-ud-Din's case the copies of the Election Petition had not been signed by the Election Petitioner. Holding that the provision relating to signing of the Election Petition by the petitioner was mandatory, the High Court of Jammu and Kashmir dismissed the Election Petition and this dismissal was upheld by their Lordships of the Supreme Court. Satya Narain's case was based upon sub-section (1) of section 86 which provides that the High Court shall dismiss an Election Petition which does not comply with the provisions of section 81 or section 82 or section 117. Section 81 provides for filing of the Election Petition within the period of limitation prescribed under sub-section (1) and for filing of copies to be served upon the respondents. Section 82 refers to the Joinder of Parties and section 117 provides for the deposit of security for costs. None of these provisions is involved in the present case. Even by applying the principle of strictness the amendment sought did not violate any provision of the Representation of People Act.

Now the material placed on record through the amendment may be examined. In paragraphs 1 to 8 of the Election Petition the petitioner has mentioned the steps taken for holding the election in question and the result of the election. In paragraph 9 the petitioner has given the grounds of challenge against the election of respondents 1 to 11. Thereafter in various clauses of paragraph 10 concise statement of material facts in support of certain grounds was sought to be given. In clause (1) (xxxiii) the petitioner has referred to certain events which took place in the political history of the country between the years 1952 and 1980, including the formation of the Janta Party in the year 1977 and return to power of Congress (I) in the year 1980. Thereafter on page 16 of the original Election Petition in clause (xxiv) he stated as follows :—

“(xxiv) That Sri H. N. Bahuguna who also joined the Janta Party in the year 1977 resigned from Janta Party and joined Congress (I) Party and was elected as Member of the Lok Sabha in the year 1980 on Congress (I) Party ticket but as differences again cropped up between him and Smt. Indira Nehru Gandhi and late.”

In the original petition the above sentence remains incomplete. The sentence is completed through the remaining portion which is on page 17 now added, and is as follows :—

“Sanjay Gandhi hence he resigned not only from Congress (I) party but also from his Lok Sabha seat from Garhwal Parliamentary Constituency wherefrom he was declared elected.”

Without page 17 the averments made in clause (xxiv) remain incomplete. In the circumstances it is apparent that the omission to attach page 17 to the original petition was purely accidental. Other clauses on page 17 are as follows :—

“(xxxv) That the petitioner after having resigned from Janta Party remained a member of Janta (S) Lok Dal party but also resigned from that party and formed the old Socialist party before the mid-term poll of election of U. P. Legislative Assembly.

(xxxvi) That finally there was a merger of the Socialist Party and Democratic Party of Shri Bahuguna forming a Democratic Socialist Party of which Shri H. N. Bahuguna was made the President of All India Party.

(xxxvii) That the Democratic Socialist Party decided that the petitioner be made a candidate for the Rajya Sabha in the Election to be held in March, 1982 from U.P. Legislative Assembly constituency.

(xxxviii) That the President of the Democratic Socialist Party Shri H. N. Bahuguna also wrote to the opposite parties conveying therein about the candidature of the petitioner as a candidate for the Rajya Sabha from the U.P. Legislative Assembly Constituency."

From the above it would be seen that upto clause (xxxviii) which is the last clause on page 17, there is nothing regarding the impugned election but only recounting of events preceding it. Upto the said clause nothing has been said regarding the corrupt practices which allegedly vitiate the election. In the circumstances it cannot be said that a new head of corrupt practice has been added through the newly added page 17 so as to attract the prohibition contained in section 86(5). My attention was not drawn to any other provision in the Representation of People Act under which amendment of the present nature could be said to be barred. In my opinion, therefore, the amendment was permissible under Order VI Rule 17 of the Code of Civil Procedure and was not barred under any provision of the Representation of People Act, including section 86(5).

In view of the above, I am of the opinion that the bar of limitation prescribed under section 81(1) of the Representation of People Act was not applicable to the present case. I am further of the opinion that the amendment was not hit by sub-section (5) of section 86 of the Act. Issues nos. 2 and 3 are decided accordingly.

Issue No. 1.—The respondents' grievance is that the order dated 16-7-1982 was passed behind their back and was thus in violation of principles of natural justice. It is not necessary to deal with this argument inasmuch as I have heard the learned counsel for the respondents on the merits of the amendment and have found that the same was justified in the circumstances of the case.

In view of the above the applications are rejected

Sd/-

S. C. MATHUR

Dated.—October 15, 1982.

ANNEXURE-II

C. M. Application Nos. 29, 30, 31, 32, 33, 35, 38, 41, 44, 45, 46, 47, 48, 49, 50(E) of 1983.

Filed in

Election Petition No. 1 of 1982.

Hon'ble S. C. Mathur, J.—These applications, except C. M. Applications Nos. 32 and 50(E) of 1982, have been made by the various respondents in the Election Petition filed by Sri Raj Narain, the defeated candidate at the election to the Council of State from the State Legislative Assembly Constituency. The common prayer in these applications is that the Election petition be dismissed under section 86 of the Representation of People Act, 1951 for non-compliance with the provisions of section 81 of the Act, for short Act. C. M. Applications Nos. 32(E) and 50(E) of 1982 are petitioner's objections against the said applications. The facts so far as they are relevant for the disposal of these applications may first be shortly stated.

The Election Petition was filed on 10-5-1982 by the petitioner personally before the Joint Registrar of this Court, for short J. R. The petition was listed before me on 5-7-1982 for orders. On this date it was noticed that certain paragraphs were missing from the petition. At the request of the petitioner's learned counsel one week's time was allowed to amend the petition and the case was ordered to be listed on 16-7-1982. When the case was taken up on 16-7-1982 the petitioner's learned counsel filed C. M. Application no. 22(E) of 1982 with the heading "Application for adding page no. 17 in the Election Petition", and containing the prayer:—

—this Hon'ble Court may be pleased to order to attach page 17 as shown in Appendix 'A' to the affidavit after page 16 in the above noted Election Petition." This application was allowed the same day and the case was ordered to be listed on 2-8-1982. On this date the Election Petition was admitted and notice returnable by 13-9-1982 was ordered to be issued and the case was ordered to be listed in Court on 20-9-1982. Thereafter on 9-8-1982 the petitioner filed process fee of Rs. 22, 44 notices, 11 registered A. D. envelopes, 11 copies of the Election Petition and 2 notices for publication. It may be mentioned that according to the endorsement dated 10-5-1982 of the Joint Registrar, 11 copies of the Election Petition had already been filed at the time of the presentation of the petition. Thus 22 copies of the election petition came on the record. The office report dated 13-9-1982 indicates that notices to the respondents were sent through ordinary process as well as by registered A. D. post. In pursuance of Court's order dated 8-10-1982, office made the following report on 19-10-1982 with regard to the service of the notices issued to respondents 1 to 11 :—

| Sl. No. | Name of Opposite parties | Registered post | Ordinary process |
|---------|--------------------------|---|----------------------------------|
| 1 | 2 | 3 | 4 |
| 1. | J.P. Goyal | Served (A/D received) | Awaited |
| 2. | B.N. Pandey | Awaited | Awaited |
| 3. | Smt. Krishna Kaul | Served (A/D received) | Served by affixation. |
| 4. | K.N. Joshi | Awaited | Unserved Copy of E.P. received. |
| 5. | Ghanshyam Singh | -do- | Awaited |
| 6. | Shanti Tyagi | -do- | -do- |
| 7. | Shyam Lal Yadav | Awaited | Awaited |
| 8. | Dr. Shankata Prasad | Unserved (A/D with copy of E.P. received) | Served through wife. |
| 9. | Sukh Deo | Unserved (A/D with copy of the E.P. received) | Unserved (Copy of E.P. received) |
| 10. | Hashim Raza Abidi | Awaited | Awaited |
| 11. | Ram Naresh | -do- | Served through nephew |

From the above report it would be seen that some of the respondents were served with the notice issued through ordinary process and some with the notice issued through registered post and still others with both the notices. There were still some respondents who were not served with either of the two notices but they put in presence by filing power of attorney in favour of their counsel. It is also proved from the record that some of the respondents received copies of the Election petition signed by the petitioner on the last page and initialled by him on other pages and some were served with copies signed by the petitioner's counsel Shri H. S. Jain only. Those respondents who have not received the notice issued either through ordinary process or through registered post obviously did not receive either of the two copies.

After putting in appearance the respondents moved C. M. Applications nos. 28, 34, 36, 37 (E) of 1982 for recall of my order dated 16-7-1982 by which I allowed the petitioner's application for leave to add page 17 to the original petition. These applications were rejected by me by order dated October 15, 1982.

Now on the behalf of the respondents it is pressed that the amendment of the Election Petition by addition of page 17 cannot cure the original defect in the original Election Petition and on account of the said defect the Election Petition is liable to be rejected. It is argued that an Election Petition liable to be dismissed under section 86 on account of the non-compliance of section 81 cannot escape that consequence by amendment of the petition. The other defects on account of which the respondents claim that the Election Petition is liable to be rejected under section 86 are as follows :—

(1) Without the amendment made by addition of page 17 to the original Election Petition, the petition is not an Election Petition because it does not make a complete, intelligent and sensible reading. (2) Section 81(3) requires filing of true copies of the Election Petition while the copies filed by the petitioner are not true copies of the original petition as they contain page 17 while the original petition did not contain the said page. (3) The copies were not true copies also because while all the pages of the Election petition bear full signature of the petitioner the copies contain his full signatures only on the last page and the rest of the pages contain only the Hindi alphabet 'Ra'. Copy means exact reproduction of the original.

4. Some of the copies filed and served on some of the respondents do not bear the signatures of the petitioner but of his counsel Sri H. S. Jain and this cannot be treated as a compliance of section 81(3) which required the attestation of true copy to be made by the petitioner himself. (5) the copies do not contain any attestation at all in as much as they contain only the signatures of the petitioner without any statement to the effect that the copy is true copy.

(6) Section 81(3) contemplates full signatures and use of the Hindi alphabet 'Ra' as initials cannot amount to compliance of the provisions. (7) The averments made on page 17 have not been verified and, therefore, the petition is not an Election Petition within the meaning of section 83(1).

The objections of the respondents are met by Sri H. S. Jain, petitioner's learned counsel by arguing that even if page 17 had not been added the petition could not be rejected under section 86 as the averments contained on page 17 only relate to the events preceding the impugned election and they do not have been challenged. He has also argued that the omission to add was merely clerical and on the basis of such clerical defect the petitioner cannot be non-suited and the illegally elected respondents cannot continue to represent the people. He has further argued that the Election Petition was accompanied with eleven copies thereof and they were duly attested as true copies inasmuch as the petitioner himself signed the last page of the petition and put his initials on the other pages thereof and the eleven copies filed after the admission of the Election Petition were not required to be signed and attested by the petitioner himself as they were not filed under Section 81(3) but were filed under the Rules of the Court, 1952 framed by this Court. The learned counsel argued that it is immaterial if some of the respondents, instead of being served with the copy filed along with the Election Petition and bearing the signatures of the petitioner himself were served with copies filed under the Rules of the Court as the compliance of section 81(3) had to be seen with reference to the date of filing the Election Petition and not with reference to any subsequent date. According to the learned counsel an Election Petition competent on the date of filing cannot become incompetent on account of subsequent event unless specified provision is made in that behalf. With reference to authorities the learned counsel argued that defective verification is not fatal to an Election Petition and a copy means a substantially true copy and on account of omission of a few paragraphs a copy will not cease to be a copy of the original. He also pressed that the term 'signature' includes 'initials' also.

On the basis of the pleadings of the parties the following additional issues were framed in the case on 22-10-1982 :—

7. Whether the petitioner filed eleven copies of the Election Petition along with the Petition duly attested in the manner provided under section 81(3) of

the Representation of People Act? If reply to the above issue is in the affirmative, whether the said copies were true copies of the petition as filed on 10th May, 1982? if not, effect?

8. What is the effect of service upon some of the respondents of copies which have not been attested by the petitioner himself but which have been attested by the petitioner's learned counsel?
9. Whether it was necessary for the petitioner to put full signature on each page of the Election Petition as it was done by him on the last page?
10. What is the effect of the amendment allowed by Court's order dated 16th July, 1982 on the application under section 86 of the Act?
11. Whether Appendix A of the affidavit filed in support of C.M. Application No. 22(E) of 1982 could be detached from that affidavit and attached to the Election Petition at page 17?
12. Whether the Election Petition is liable to be rejected on account of the fact that the averments contained at page 17 have not been verified?

Before taking up the issues, individually, the provisions of section 86 and section 81 may be noticed. Sub-section (1) of section 86 provides as follows :—

"(1) The High Court shall dismiss an election petition which does not comply with the provisions of section 81 or section 82 or section 117."

In the present case we are not concerned with section 82 and 117, section 81, of which non-compliance is alleged by respondents, provides as follows :—

"81. Presentation of petitions : (1) An election petition calling in question any election may be presented on one or more of the grounds specified in sub-section (1) of section 100 and section 101 to the High Court by any candidate at such election or any elector within forty five days from, but not earlier than, the date of election of the returned candidate, or if there are more than one returned candidate at the election and the dates of their election are different, the later of those two date.

Explanation:—

(3) Every election petition shall be accompanied as many copies thereof as there are respondents mentioned in the petition and every such copy shall be attested by the petitioner under his own signature to be true copy of the petition." In the present petition non-compliance by the petitioner is alleged both of sub-section (1) as well as sub-section (3). In respect of sub-section (1) it is pleaded that the petition, that was originally filed in this Court, was not an Election petition at all and, as such, it was liable to be dismissed under section 86(1). In respect of sub-section (3) it is alleged that the petitioner did not file copies of the Election petition attested by the petitioner under his own signature to be a true copy of the petition and, therefore, there was non-compliance of the sub-section.

ISSUE NO. 10 :

With reference to the decision by their Lordship of the Supreme Court in Mohan Raj Vs. Surendra Kumar Taparia and others (A.I.R. 1969 S.C. 677) the learned counsel for the respondents argued that the amendment of the Election Petition cannot cure the defect of the sections referred to in section 86(1). This was a case under section 82 which is also one of the sections referred to in sub-section (1) of section 86 and the non-compliance with which renders the Election petition liable to be dismissed under section 86(1). In paragraph 10 of the judgment at page 681 their Lordships have observed as follows :—

"It is argued that the Civil Procedure Code applies and O.6 R. 17 and O.1 R. 10 enable the High Court respectively to order amendment of a petition and to strike out parties. It is submitted, therefore, that

that both these powers could be exercised in this case by ordering deletion of references to Perwal. This argument cannot be accepted, no doubt the power of amendment is preserved to the Court and O.1 R.10 enables the Court to strike out parties but the Court cannot use O.6 R. 17 or O.1 R. 10 to avoid consequences of non-joinder for which a special provision is to be found in the Act. The Court can order an amendment and even strike out a party who is not necessary. But when the Act make a person a necessary party and provides that the petition shall be dismissed if such a party is not joined, the power of amendment or to strike out parties cannot be used at all. The Civil procedure Code applies subject to the provisions of the Representation of the People Act and any rules made thereunder (see S.87). When the Act enjoins the penalty of dismissal of the petition for non-joinder of a party the provisions of the Civil Procedure Code cannot be used as curative means to save the petition."

In *K. Venkateshwara Rao and another Vs. Bakkam Narasimha Reddy and others* (A.I.R. 1969 S.C. 872) their Lordships of the Supreme Court observed in paragraph 14 at page 877 as follows :—

"It is well settled that amendments to a petition in a civil proceeding and the addition of parties to such a proceedings are generally possible subject to the law of limitation. But an election petition stands on a different footing; The trial of such a petition and the powers of the Court in respect thereof are all circumscribed by the Act. . . ."

In *Jyoti Basu and others Vs. Debi Ghosal and others* (A.I.R. 1982 Supreme Court 1983) their Lordships reiterated the view taken by them in *Mohan Raj's case* (Supra) and *K. Venkateshwara Rao's case* (Supra).

In view of the fact that the provisions of section 86(1) are mandatory, it has to be held that the amendment of the Election petition allowed by order dated 16-7-1982 will have no effect on the application under section 86(1) of the Act. At appropriate place it would be seen whether the Election Petition does suffer from non-compliance of the provisions of section 81.

"With reference to the decision in *Shiv Chand Vs. Ujagar Singh and another* (1978) 4 Supreme Court cases 152, the learned counsel for the petitioner argued that a petition could not be dismissed on the ground of procedural technicality. In this case allegation of corrupt practice had been made against certain candidate at the election but he was not impleaded in the petition. Later an application was made by this candidate under section 86(4) for his impleadment in the petition which was rejected by the High Court. Sub-section (4) prescribed the period of limitation for moving such an application, this period being 14 days from the date of commencement of the trial. The application by the candidate had been moved within this period. An application was moved by the election petitioner also for the impleadment of this candidate. Alternatively it was prayed that the allegation of corrupt practice made against the candidate may be allowed to be deleted. The High Court, it appears, rejected both the applications and holding that the Election petition did not comply with the provisions of section 82, rejected the Election Petition itself. Against this order the election petitioner preferred appeal before their Lordship of the Supreme Court which was allowed. While allowing the appeal their Lordship observed that procedural tyranny compounded by lexically unwarranted technicality cannot be tolerated in a court. It was further observed that once the candidate whose presence was necessary in view of section 82 of the Act came before the Court for impleadment under section 86(4), the matter must be judged with reference to the petition as amended by addition of the new respondent. It is true that this was a case in which a necessary party had not been impleaded in the Election petition. Such a necessary party was required to be impleaded in view of the provisions contained in clause (b) of section 82. However, it is to be noticed that such a person has been given an independent

right to apply for impleadment under sub-section (4) of section 86. When, therefore, the candidate applied for his impleadment under sub-section (4) of section 86 there could be no justification for rejecting the application. Once his application was allowed, it could not thereafter be said that the petition still suffered from the defect of section 82(b). This judgment is, therefore, of no assistance to the learned counsel for the petitioner. It was also argued by the learned counsel for the petitioner that section 86(1) contains a mischief rule and the effort of the Court should be to suppress the mischief. In support of the argument he placed reliance upon *Swantraj and other vs. State of Maharashtra* (1975 3 Supreme Court cases 322). This was a case under the Drugs and Cosmetics Act, 1940. Their Lordships interpreted the provisions of the Act and the Rules aimed at ensuring purity of drugs and to suppress sale of spurious drugs. Their Lordships expressed the view that the provisions of the Act and the Rules would suppress the mischief which the Act and the Rules seek to suppress. In the present case there is no question of suppression of any mischief. The Representation of the People Act does not embody the common law. It is an special enactment and its provisions have to be strictly followed. When section 86(1) specifically enjoins upon the High Court to dismiss an Election petition which does not comply with the provisions of section 81, the court cannot be invoking the mischief rule refuse to dismiss the petition

ISSUE NO. 11 :

Through C. M. Application No. 22(E) of 1982 the petitioner had prayed for amendment of the Election petition by seeking leave to attach page No. 17 as shown in Appendix A to the affidavit after page No. 16 in the original Election Petition. The prayer thus was that the petitioner may be permitted to attach page No. 17 after No. 16 in the original Election Petition. This page No. 17 was attached to the affidavit filed in support of the application as Appendix A. When this application was allowed, the petitioner's learned counsel removed Appendix A from its original place and placed it immediately before page No. 18. The argument of the learned counsel for the respondents was that appendix A was part of the affidavit and it could not therefore, be detached from the affidavit and placed alongwith the election petition. It is true that Appendix A was part of the affidavit but even a part of the affidavit could be detached from the affidavit and placed elsewhere under the orders of the court. The petitioner had specifically sought permission to attach page No. 17, as shown in the Appendix A of the affidavit, in the original petition. This he was allowed to do. In order to comply with the orders of the court he had to detach Appendix A from the affidavit and place it after page No. 16. In my opinion, therefore, the petitioner did not commit any legal error in carrying out amendment of Election petition in the manner hereinbefore stated.

ISSUE NOS. 7, 8 and 9 :

These three issues can conveniently be disposed of together. The first question that arises for determination is whether the petitioner filed eleven copies of the Election petition duly attested in the manner provided under the sub-section along with the original petition as required by sub-section (3) of section 81. The Election petition, as mentioned above, was filed on 10-5-1982 before the Joint Registrar. The Joint Registrar, while receiving the petition, made the following endorsement :—

"Challan No. C-8 10, Rs. 2000 enclosed dated 3-5-82 and 11 copies of petition."

"The stamp Reporter of this court has made the following endorsement on the reverse side of the petition—

"Provisions of sections 81, 82 and 117 as also proviso to 83B of the Representation of People Act, 1951 have been complied with."

The above endorsements have been very strongly relied upon by the learned counsel for the petitioner for urging that the petitioner had in fact filed eleven copies of the Election Petition and that these copies were attested by the petitioner under his own signature. The reliance by the learned counsel on the above endorsements appears to be justified. In *Jugal*

Kishore Patnaik vs. Ratnakar Mohanty (1977) 1 Supreme Court cases 567 reliance placed on the endorsements made by the official of the High Court were relied upon as is apparent from paragraph 8 of the report. However the learned counsel for the respondents argued that in the present case the office report cannot be relied upon as it is obviously incorrect. The argument was based on the fact that although one page was missing from the Election Petition yet the stamp Reporter reported that the provisions of sections 81, 82 and 117 had been complied with. The stamp Reporter was not required to examine every page of the Election Petition. This of course was required to be examined by the oath commissioner who verified the Election Petition. The stamp Reporter had to examine the compliance of Sections 81, 82 and 117 in a broad manner.

The Joint Registrar in his endorsement dated 10-5-1982 has specifically observed that the Election Petition was accompanied by eleven copies of the petition and the Stamp Reporter has observed that provisions of section 81 have been complied with. It is true that in neither of the endorsements it has been mentioned that eleven copies accompanying the Election petition bore the signature of the petitioner but that is apparent from the endorsement of the Stamp Reporter wherein he had mentioned that provisions of section 81 have been complied with. It is sub-section (3) of section 81 which requires the copies of the Election Petition accompanying the Election Petition to be attested by the petitioner under his own signature. Apart from the two endorsements hereinbefore mentioned, the petitioner himself has filed affidavit to say that the copies accompanying the Election Petition had been signed by him and that the eleven copies filed subsequently after the order of admission had been passed, had been signed by his counsel. It has been proved from the record that some of the respondents had received copies bearing the signatures of the petitioner himself. On these facts it can reasonably be deduced that the eleven copies filed alongwith the Election Petition had been attested by the petitioner himself under his own signature.

The learned counsel for the respondents, however, argued that even the eleven copies filed subsequently should have been attested in the same manner as the eleven copies accompanying the Election Petition. The argument was that the Rules of the court do not make any provision with regard to attestation of the copies and the provision in that behalf is contained only in the Representation of the People Act, 1951 and, therefore, there being no conflict between the Rules and the Act, the Rules were only complimentary to the Act and the provisions of the Act had to be complied with while complying with the provisions of the Rules. If the argument of the learned counsel is accepted, a petition which may be competent under sub-section (3) of section 81 would become incompetent if the copies filed subsequently are not attested in the manner provided by sub-section (3) of section 81. This in my opinion cannot be the intention of the law. Under section 86 an Election Petition can be dismissed if it does not comply with the provisions of section 81 but not if it does not comply with the requirements of the Rules of the Court. Section 86(1) will have to be confined to the stage of filing of the Election petition. In my opinion, therefore, the Election Petition cannot be dismissed on the ground that the copies supplied by the petitioner subsequently in compliance with the requirement of the Rules of the court, were not signed and attested by the petitioner himself.

Another argument for pleading non-compliance of sub-section (3) of section 81 was that the copies which were signed by the petitioner had not been signed in the manner the original petition had been signed and, therefore, they could not be said to be true copies of the original. A perusal of the original petition shows that all the pages thereof have been signed by the petitioner by putting his full name. It was not disputed before me that so far as copies were concerned the petitioner put full signature on the last page of the copy but put only the Hindi alphabet 'Ra' as his initial on the other pages. According to the learned counsel for the respondents since the petitioner had put his full name on each page of the original petition, he should have put his full name on all pages of the copies also. Section 81(3) only requires each copy to be attested by the petitioner under his own signature. It does not say whether the signature should be full or should be in the form of initial. In my

opinion the term signature in section 81(3) includes the initial also.

Another ground for saying that the respondents did not receive true copy of the Election petition was that although the Election petition contains in index, the same was not supplied with the copies. The index has been filed in order to indicate what has been filed by the petitioner in court. In the index at serial no. 1 is mentioned the Election petition and at serial no. 2 the affidavit in support of the allegation of corrupt practice. At serial No. 3 is mentioned the list of documents and at serial no. 4 the receipt for deposit of Rs. 2000 on 3-5-1982. At serial no. 6 is mentioned the eleven true copies of the Election petition whereas at serial no. 5 registered address of the petitioner is shown. There is no statutory requirement or filing an index alongwith the Election petition. Therefore, even if the index is treated to be part of the Election petition, which I am not inclined to hold, the petition cannot be dismissed on account of the failure of the petitioner to furnish the index to the respondents.

With reference to the decision in Jagat Kishore Prasad Narain Singh Vs. Rajendra Kumar Poddar and other (A.I.R. 1971 Supreme Court 342) the learned counsel for the respondents argued that the term copy used in section 81(3) refers to the copy actually served on the respondent and that copy must bear the signature of the petitioner himself. This question was not decided in this case as it had not been pressed before their Lordships. In paragraph 6 their Lordships observed that the law requires a true copy of the Election petition to be served on the respondent and that in that case this requirement had not been complied with fully or substantially. In the same paragraph their Lordships approved of the view taken in the earlier cases wherein it had been laid down that the term copy used in section 81 (3) did not mean an absolutely exact copy of the original but it meant only a copy so true that nobody could by any possibility misunderstand it and that the test was whether any variation from the original was calculated to mislead an ordinary person. In my opinion the copies served upon the respondents were not likely to mislead them.

It was strenuously argued that some of the respondents had not been served with any copy whatsoever. To such a respondent notices had been issued by registered post as well as by ordinary post. These notices could not be served upon them. If these respondents had not put in appearance on their own, notices would have been sent to them again and they would have been received a copy of the Election petition. By their own action they deprived them.....of the copy which they they would have otherwise received.

For this act of their own the petitioner cannot be blamed or penalised. Be that as it may, I have already observed that the competence or validity of the Election petition is to be judged with reference to the date on which it is filed and not with reference to any subsequent date and in this context service of the copy of the Election petition becomes irrelevant.

Sri Raja Ram Agrawal appearing for some of the respondents raised a further argument. He argued that the Election petition filed in this court was not an Election petition at all and, therefore, it was liable to be rejected under section 86. According to the learned counsel section 81 contemplates a complete petition and not an incomplete petition and in the present case the petitioner has himself admitted in his affidavit that the petition filed by him was an incomplete one. The learned counsel argued that the prayer made in C.M. Application No. 22(E) of 1982 did not amount to amendment of the Election petition but to completion of the petition which was not permissible. According to the learned counsel a complete petition would be one which discloses a complete cause of action but the petition as originally filed does not show such a cause of action. The learned counsel argued that the averments made on page 17 are material and they have a bearing on the allegation of corrupt practice. In support of this contention the learned counsel invited my attention to paragraph 10 of the Election petition in which it has been stated that the material facts in support of ground No. A and its sub-grounds (A-1), (A-2), (A-3) and (A-4) and ground B and its sub-ground (B-1), (B-2), (B-3) and (B-4) are

given below. After making this statement in paragraph 10, the petitioner in sub-paragraphs (1) to (Lxxxi) gave the concise statement of facts. Some of the sub-paragraphs are contained on page No. 17. The averments made on page 17 do not directly relate to the corrupt practices alleged by the petitioner. I have discussed this matter in detail while disposing of the respondents application for recall of my order dated 6-7-1982. In my opinion even if the said page was excluded the petition could not be said to be defective under section 81(1). In support of his argument the learned counsel cited Satya Narain vs. Dhruja Ram and other (A.I.R. 1974 S.C. 1185), Samant N. Balakrishna and others vs. George Fernandez and other (A.I.R. 1969 Supreme Court 1201), Jyoti Basu and others vs. Debi Ghosal and others (A.I.R. 1982 Supreme Court 983) and Sri Ramamohan Motor Service vs. Commissioner of Income tax, Hyderabad (AIR 1973 SC 1445). In view of the opinion already expressed by me, it is not necessary to examine these authorities.

In view of the above issues nos. 7, 8 and 9 are decided in favour of the petitioner and against the respondents.

ISSUE NO. 12 :-

Sri J. R. Acharya, who appeared for some of the respondents, had argued that even after amendment the averments made on page 17 remained unverified and, therefore, the Election Petition is defective inasmuch as under section 83 (1) (c) an Election Petition is required to be verified in the manner laid down in the Code of Civil Procedure. It is true that the paragraphs or clauses contained on page 17 have not been verified but that would amount to non-compliance of section 83(1)(c) and not on section 81(1) and, therefore, the Election Petition cannot be dismissed by invoking section 81(1).

In view of the above the respondents' applications are rejected.

Sd./- S. C. MATHUR
1-12-1982.

IN THE HON'BLE HIGH COURT OF JUDICATURE
AT ALLAHABAD LUCKNOW BENCH LUCKNOW.

Election Petition No. 1 of 1982.

Raj Narain

Petitioners

VERSUS

J. P. Goel and others

Opp-Parties.

Petition Under Article 226 of the Constitution of India
Lucknow dated : 3-4-1984.

Hon'ble : S. C. Mathur, J.

Against my order the respondents preferred appeals before their Lordships of the Supreme Court which were registered as Civil Appeal No. 3702 (NCE) of 1982, Civil Appeal No.

9 of 1983 and Civil Appeal No. 10 of 1983. While disposing of these appeals their Lordships have passed the following operative order :-

"For the reasons given above, we allow the appeals, set aside the judgment of the High Court and dismiss the election Petitions in limine under s. 86 of the Act. In the circumstances, there will be no order as to costs."

It is now no longer in dispute between the parties that in view of the above order the election petition has been dismissed. The learned counsel for the respondents Sri S. R. Dwivedi and Sri R. C. Srivastava, however, submitted that an order regarding costs has to be passed by this Court. In support of this submission they relied on Sections 98, 107 and 119 of the Representation of the People Act. These provisions could be invoked by this Court for awarding costs to the respondents only if the final dismissal of the election petition was left in the hands of this Court. By the above order nothing was left to be decided by this Court. The election petition itself was dismissed by their lordships of the Supreme Court under section 86 of the Act and with regard to costs it was observed 'There will be no order as to costs' meaning thereby that the parties shall bear their own costs. In the circumstances, I cannot make any order of costs at this stage. Accordingly, the submissions made by Sri Dwivedi and Sri Srivastava that I may pass an order for payment of costs to the respondents is rejected.

In view of the judgment dated 27-2-1984 of the Supreme Court the papers of the case are consigned to records.

Sri S. R. Dwivedi and Sri R. C. Srivastava have pointed out that some applications made by the petitioner are pending disposal. In view of the fact that the election petition itself stand dismissed, no orders are required on the said applications. The said applications will be deemed to have been rejected as infructuous.

The petitioner had deposited the sum of Rs. 2,000/- by way of security since under orders of their Lordships of the Supreme Court costs have been made easy, this amount shall be refunded to the petitioner.

Substance of this order shall be communicated to the Election Commission and the Chairman of the Rajya Sabha. Copy of this order shall be sent to the Election Commission as soon as possible.

Dated : 3-4-1984.

Sd./- S. C. MATHUR,

[No. 82/UP/1/82-LKO]

By Order,

O. N. NAGAR, Under Secy.

